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Sunset Reviews
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MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for Sunset Reviews of the
Antidumping Duty Orders on Certain Helical Spring Lock Washers
from the People's Republic of China and Taiwan; Final Results

SUMMARY:

We have analyzed the substantive responses of the interested parties in the second sunset reviews of the antidumping duty orders on certain helical spring lock washers ("HSLWs") from the People's Republic of China ("PRC") and Taiwan. We recommend that you approve the positions we developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

History of the Orders

PRC

On September 20, 1993, the Department of Commerce ("Department") published its affirmative determination of sales at less than fair value ("LTFV") with respect to HSLWs from the PRC. See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's Republic of China, 58 FR 48833 (September 20, 1993). The Department published an antidumping duty order, which included an amendment to the LTFV determination in order to correct ministerial errors made in the margin calculations in the final determination,

on October 19, 1993. See Antidumping Duty Order: Certain Helical Spring Lock Washers From the People's Republic of China, 58 FR 53914 (October 19, 1993). The Department established a weighted-average margin of 69.88 percent for Hangzhou Spring Washer Plant (“HSWP”) and HSWP via seven foreign trading companies,¹ and 128.63 percent for the PRC entity. Following the investigation and prior to the first sunset review, the Department conducted four administrative reviews.

On November 2, 1999, the Department initiated the first sunset review of the antidumping duty orders on HSLWs from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). See Notice of Initiation of Five-Year (“Sunset”) Reviews, 64 FR 59160 (November 2, 1999) (“First Sunset Review Initiation Notice”). As a result of the first sunset review, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on HSLWs from PRC would likely lead to continuation or recurrence of dumping. See Helical Spring Lock Washers From the People's Republic of China and Taiwan; Final Results of Expedited Sunset Reviews, 65 FR 35605 (June 5, 2000) (“First Sunset Review Final Results”). On January 31, 2001, the International Trade Commission (“ITC”), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on HSLWs from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Helical Spring Lock Washers from China and Taiwan, 66 FR 8424 (January 31, 2001); see also Helical Spring Lock Washers from China and Taiwan (Invs. Nos. 731-TA-624-625 (Review), USITC Publication 3384, January 2001) (collectively “ITC Final”). Accordingly, the Department published a notice of the continuation of the antidumping duty order on HSLWs from the PRC, pursuant to section 351.218(f)(4) of the Department’s regulations. See Continuation of Antidumping Duty Orders on Helical Spring Lock Washers from China and Taiwan, 66 FR 11255 (February 23, 2001) (“Continuation Notice”).

Since the first sunset review, the Department has completed four administrative reviews.² The Department rescinded the most recent administrative review, covering 2003-2004, because the only party to request this review timely withdrew its request.³ In the administrative review

¹ i.e., IFI Morgan Limited, Carway Development Limited, Fastwell Industry Co., Ltd., Linkwell Industry Co., Ltd., Midway Fasteners, Ltd., Sunfast International Corp., and Winner Standard Parts Co., Ltd.

² See Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 67 FR 8520 (February 25, 2002), Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 67 FR 69717 (November 19, 2002), Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order, in Part, 69 FR 12119 (March 15, 2004), Certain Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 28274 (May 17, 2005).

³ See Helical Spring Lock Washers from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review, 70 FR 11614 (March 9, 2005).

covering 1999-2000, the Department published one company-specific weighted-average dumping margin of 0.01 percent for HSWP, also known as Zhejiang Wanxin Group Co., Ltd. In the administrative review covering 2000-2001, the Department published one company-specific weighted-average dumping margin of 0.13 percent for HSWP. In the administrative review covering 2001-2002, the Department published one company-specific weighted-average dumping margin of 28.59 percent for HSWP. In the administrative review covering 2002-2003, the Department published one company-specific weighted-average dumping margin of zero percent for HSWP. The order remains in effect for all known producers/exporters of the subject merchandise from the PRC. To date, the Department has not issued any duty absorption findings in this case.

Taiwan

On May 11, 1993, the Department published its affirmative determination of sales at LTFV with respect to HSLWs from Taiwan. See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From Taiwan, 58 FR 27709 (May 11, 1993). The antidumping duty order was published on June 28, 1993. See Antidumping Duty Order: Certain Helical Spring Lock Washers From Taiwan, 58 FR 34567 (June 28, 1993). The Department established three company-specific weighted-average dumping margins of 31.93 percent for Spring Lake Enterprises Co., Ltd., Ceimiko Industrial Co., Ltd., and Par Excellence Industrial Co., Ltd, as well as an “All Others” rate of 31.93 percent. Following the investigation and prior to the first sunset review, the Department did not conduct any administrative reviews of this order.

On November 2, 1999, the Department initiated the first sunset review of the antidumping duty order on HSLWs from Taiwan pursuant to section 751(c) of the Act. See First Sunset Review Initiation Notice. As a result of the first sunset review, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on HSLWs from Taiwan would likely lead to continuation or recurrence of dumping. See First Sunset Review Final Results. On January 31, 2001, the ITC, pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on HSLWs from Taiwan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See ITC Final. Accordingly, the Department published a notice of the continuation of the antidumping duty order on HSLWs from Taiwan, pursuant to section 351.218(f)(4) of the Department’s regulations. See Continuation Notice.

The Department has not conducted any administrative reviews of this order to date. The order remains in effect for all known producers/exporters of the subject merchandise from Taiwan. To date, the Department has not issued any duty absorption findings in this case.

Background

On January 3, 2006, the Department initiated the second sunset reviews of the antidumping duty orders on HSLWs from the PRC and Taiwan pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 9919 (January 3, 2006). On January 18, 2006, the Department received notices of intent to participate in both sunset reviews from a domestic interested party, Shakeproof Assembly Components Division of Illinois Tool Works Inc. (“Shakeproof”), within the applicable deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. Shakeproof claimed interested party status under section 771(9)(C) of the Act as a U.S. producer of the domestic like product. On February 2, 2006, Shakeproof submitted complete substantive responses regarding the PRC and Taiwan, within the 30-day deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. The Department did not receive responses to the notice of initiation from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department conducted expedited sunset reviews of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of subject merchandise for the period before and after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested party.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

PRC

In its substantive response, Shakeproof argues that revocation of the antidumping duty order on HSLWs from the PRC would likely result in the continuation or recurrence of dumping. See Shakeproof’s February 2, 2006, submission at 5-8 (“PRC Substantive Response”). Shakeproof argues that imports from the PRC have not been sold in the U.S. market at non-dumped levels. Shakeproof points out that since the imposition of the antidumping order, all PRC imports, with the exception of subject merchandise exported by HSWP, have been covered by a dumping margin of 128.63 percent. With respect to HSWP, Shakeproof provided a table showing the dumping margin calculated by the Department in each administrative review subsequent to the

original LTFV antidumping investigation. Using this table, Shakeproof argues that after achieving a de minimis margin in the 1999-2000 and 2000-2001 administrative reviews, HSWP was unable to continue exporting HSLWs to the United States without resuming dumping at a significant level (i.e., 28.59 percent as established in the final results of the 2001-2002 administrative review). Further, Shakeproof asserts that although the Department found HSWP's dumping margin to be de minimis in the most recently completed 2002-2003 administrative review, the Court of International Trade recently granted the Department a voluntary remand to reconsider the decision that led to those final results. Citing the Department's policy bulletin,⁴ Shakeproof argues that the existence of dumping margins after the order was issued is indicative of the likelihood of continuation or recurrence of dumping, and that the existence of de minimis dumping margins should not affect the Department's conclusion that dumping is likely to continue if the antidumping duty order is revoked.

Regarding import volumes, Shakeproof argues that imports of HSLWs from the PRC have been aggressive in the U.S. market, and that subject imports⁵ control a large portion of the U.S. market. Additionally, Shakeproof contends that while the U.S. market share has grown with respect to subject imports, U.S. demand for HSLWs has declined over the 2001-2005 period. Shakeproof further argues that substitute products have adversely affected U.S. demand, and that subject imports have even displaced imports from other countries. Finally, Shakeproof argues that subject imports are likely to grow if the order is revoked, at the expense of the domestic industry which is already vulnerable given the recent increase in raw material costs for steel wire rod, a major input into producing HSLWs.

Taiwan

Shakeproof makes similar arguments regarding the likely effects of revocation of the order on HSLWs from Taiwan. See Shakeproof's February 2, 2006, submission at 5-8 ("Taiwan Substantive Response"). Shakeproof argues that revocation of the order on HSLWs from Taiwan is likely to lead to continued dumping because, despite the low volume of imports of subject merchandise since the issuance of the order, such imports have remained subject to a 31.93 percent dumping duty due to the fact that the Department has not conducted any administrative reviews of this order. Thus, contends Shakeproof, it is clear that Taiwanese producers have concluded that they are unable to compete in the U.S. market at above de minimis levels without selling at significantly less than fair value. Shakeproof further argues that the Sunset Policy Bulletin addresses such trends by stating:

{D}eclining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent

⁴ See Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin")

⁵ i.e., the cumulation of imports into the United States from the PRC and Taiwan.

an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.

See Sunset Policy Bulletin, 63 FR at 18872.

Regarding import volumes, Shakeproof argues that subject imports control a large portion of the U.S. market.⁶ Additionally, Shakeproof contends that while the U.S. market share has grown with respect to subject imports, U.S. demand for HSLWs has declined over the 2001-2005 period. Shakeproof further argues that substitute products have adversely affected U.S. demand, and that subject imports have even displaced imports from other countries. Finally, Shakeproof argues that subject imports are likely to grow if the order is revoked, at the expense of the domestic industry which is already vulnerable given the recent increase in raw material costs for steel wire rod, a major input into producing HSLWs.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action (“SAA”), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”), and the Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”), the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.

The information on the records of these proceedings demonstrates that dumping has persisted since the issuance of these orders. Cash deposit rates above de minimis remain in effect for all exports of HSLWs from the PRC and Taiwan, with the possible exception of PRC exports of HSLWs from HSWP.⁷ The Department also analyzed and considered the volume of imports of the subject merchandise for the period before the issuance of the orders and for the period after the issuance of these orders, and import volumes over the past five years. We note that with respect to HSLWs from Taiwan, import volumes continue to be well below pre-order levels while dumping margins remain at levels above de minimis. See Attachment 1. With respect to HSLWs from the PRC, import volumes initially decreased after the issuance of the order, but then subsequently increased between 1996 and 2000 (i.e., the year in which we conducted the first sunset review). Since the first sunset review, import volumes from the PRC initially

⁶ Shakeproof discusses the effect of imports on U.S. market share and demand on a cumulated basis (i.e., the combined import volumes into the United States of subject merchandise from the PRC and Taiwan). See Taiwan Substantive Response at 7-8.

⁷ Pending the outcome of the remand determination referenced above.

decreased somewhat, but have since returned to levels close to those prior to the issuance of the dumping order. Id. Nonetheless, we agree with Shakeproof that because dumping continued at levels significantly above de minimis after the issuance of these orders, the likelihood of continuing dumping at above de minimis levels warrants the continuation of these orders. Therefore, on the basis of the information on the record, we continue to find that it is likely that dumping would continue or recur if the antidumping duty orders were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

PRC

Shakeproof asserts that in accordance with the legislative history and the Department's policy, the Department should provide the ITC with the rates from the original investigation, 69.88 percent for HSWP, and 128.63 percent for all other PRC exporters of HSLWs from the PRC for purposes of its final results because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See PRC Substantive Response at 9.

Taiwan

Shakeproof asserts that in accordance with the legislative history and the Department's policy, the Department should provide the ITC with the rates from the original investigation. These are 31.93 percent for Spring Lake Enterprises Co., Ltd., 31.93 percent for Ceimiko Industrial Co., Ltd., 31.93 for Par Excellence Industrial Co., Ltd, and 31.93 percent for the "All Others" rate. See Taiwan Substantive Response at 9. These rates should be reported because they are the only calculated rates that reflect the behavior of exporters without the discipline of an order.

Department's Position

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department normally will select a margin from the final determination of the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See SAA at 890, and the House Report at 64.

In the final determination of the investigation from the PRC, the Department found dumping margins of 69.88 percent for HSWP and 128.63 percent for the PRC entity. In the final determination of the investigation from Taiwan, the Department found dumping margins of 31.93 percent for Spring Lake Enterprises Co., Ltd., 31.93 percent for Ceimiko Industrial Co., Ltd., 31.93 for Par Excellence Industrial Co., Ltd, and 31.93 percent for "all others."

In the final results of subsequent administrative reviews of the PRC order, margins continued to be at or above de minimis. In the first sunset review, the Department determined that the margins calculated in the original investigation are reflective of the behavior of the PRC and Taiwanese producers and exporters of HSLWs without the discipline of the order. Furthermore, for the second sunset review of HSLWs from the PRC, the Department does not find any indication that the margins calculated in subsequent reviews are more probative of behavior without the discipline of the order. Additionally, there have been no administrative reviews of HSLWs from Taiwan. Consequently, as in the first sunset review, the Department finds that the margins from the original investigation are the appropriate margins to report to the ITC with respect to the orders on HSLWs from the PRC and Taiwan because they are the only calculated rates that reflect the behavior of producers and exporters without the discipline of the orders. Therefore, consistent with section 752(c) of the Act, the Department will report to the ITC company-specific and “All Others” or PRC-wide rates from the investigations as indicated in the “Final Results of Reviews” section of this memorandum.

Final Results of Reviews

As a result of these reviews, the Department determines that revocation of the antidumping duty orders on HSLWs from the PRC and Taiwan would likely lead to a continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
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PRC

Hangzhou Spring Washer Plant (“HSWP”)	
a/k/a Zhejiang Wanxin Group Co., Ltd.	69.88
HSWP via IFI Morgan Limited	69.88
HSWP via Carway Development Ltd.	69.88
HSWP via Midway Fasteners Ltd.	69.88
HSWP via Linkwell Industry Co., Ltd.	69.88
HSWP via Fastwell Industry Co., Ltd.	69.88
HSWP via Sunfast International Corp.	69.88
HSWP via Winner Standard Parts Co., Ltd.	69.88
PRC-wide Rate	128.63

Taiwan

Spring Lake Enterprises Co., Ltd.	31.93
Ceimiko Industrial Co., Ltd.	31.93
Par Excellence Industrial Co., Ltd	31.93
All Others Rate	31.93

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these sunset reviews in the Federal Register.

AGREE _____

DISAGREE _____

David M. Spooner
Assistant Secretary
for Import Administration

Date

Attachment 1

U.S. Imports of Helical Spring Lock Washers